STATUS OF CLAIMS:

The election of Group II, process claims 8-34, is affirmed.

Claims 8-40 are pending herein, claims 1-7 having been deleted as they are drawn to non-elected Group I, and claims 35-40 having been added. Support for new claims 35-40 can be found, for example, in originally filed claims 5 and 6.

REMARKS

A. Rejection of Claims 8-34 under 35 U.S.C. 103(a)

Claims 8-20 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,573,030 (Fairbairn et al.) in view of U.S. Patent No. 6,420,261 (Kudo).

Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fairbairn et al. in view of Kudo and further in view of U.S. Patent No. 6,083,815 (Tsai et al.).

Claims 21, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fairbairn et al. in view of Kudo and further in view of U.S. Patent No. 6,200,881 (Lou).

Claims 30, 31, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fairbairn et al. in view of U.S. Patent No. 5,967,769 (Chapman).

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fairbairn et al. in view of Chapman and further in view of U.S. Patent No. 5,873,984 (Cheng et al.).

The primary reference utilized in each of the above rejections is U.S. Patent No. 6,573,030 to Fairbairn et al. It is noted that Fairbairn et al. did not issue until June 3, 2003--a date subsequent to the filing date of the present application. This patent appears to fall, however, within the confines of 35 U.S.C. § 102(e)(2): "A person shall be entitled to a patent unless...(e) the invention was described in...(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent..."

It is further noted that the assignee of Fairbairn et al. (Applied Materials, Inc.) and the assignee of the present application are one and the same. 35 U.S.C. § 103(c) reads as follows: "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f) or (g) of section 102 of this title, shall not preclude patentability under this

section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Statement concerning common ownership

In this connection, and in compliance with M.P.E.P. 706.02(l)(2), it is submitted that Application No. 09/905,172 and U.S. Patent No. 6,573,030 B1 were, at the time the invention of Application No. 09/905,172 was made, owned by Applied Materials, Inc. or subject to an obligation of assignment to Applied Materials, Inc.

In view of the above, reconsideration and withdrawal of the outstanding rejection of the presently pending claims under 35 U.S.C. 103(a) are respectfully requested.

B. Rejection of Claims 8-34 – Obviousness-type Double Patenting

Claims 8-20 and 27-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-73 of U.S. Patent No. 6,573,030 (Fairbairn et al.) in view of U.S. Patent No. 6,420,261 (Kudo).

Claims 21-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-73 of Fairbairn et al. in view of Kudo and further in view of U.S. Patent No. 6,083,815 (Tsai et al.).

Claims 21, 25 and 26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-73 of Fairbairn et al. in view of Kudo and further in view of U.S. Patent No. 6,200,881 (Lou).

Claims 30, 31, 33 and 34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-73 of Fairbairn et al. in view of U.S. Patent No. 5,967,769 (Chapman).

Claim 32 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-73 Fairbairn et al. in view of Chapman and further in view of U.S. Patent No. 5,873,984 (Cheng et al.).

As noted in the Office Action, a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a

nonstatutory double patenting ground, provided the conflicting application or patent is shown to be commonly owed with the present application. A Terminal Disclaimer is enclosed herewith.

Accordingly, reconsideration and withdrawal of the outstanding rejection of the presently pending claims under the judicially created doctrine of obviousness-type double patenting are respectfully requested.

CONCLUSION

Applicants submit that all pending claims of the present invention are in condition for allowance, early notification of which is earnestly solicited. Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone the Applicant's attorney at (703) 433-0510 in order that any outstanding issues be resolved.

FEES

The Terminal Disclaimer Fee of $110, and any additional fees due and owing in respect to this amendment may be charged to deposit account number 50-1047.

Respectfully submitted,

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Certificate of Facsimile Transmission

I hereby certify that this document and any document referenced herein is being sent to the United States Patent and Trademark office via Facsimile to: 703-872-9310 on Sept 10, 2003

David B. Bonham
(Printed Name of Person Mailing Correspondence)

(Signature)